REMARKS

Summary Of The Office Action & Formalities

Status of Claims

Claims 1-13 are all the claims pending in the application.

Claim to Foreign Priority

Applicant thanks the Examiner for acknowledging the claim to foreign priority and for confirming that the certified copy of the priority document was received.

Information Disclosure Statement

Applicant also thanks the Examiner for initialing the *U.S.* and *foreign* references listed on form PTO/SB/08 submitted with the Information Disclosure Statement filed on June 23, 2005.

However, the Examiner failed to initial the Non Patent Literature Document "Patent Abstracts of Japan" on the form PTO/SB/08. Applicant respectfully requests that the Examiner initial all of the documents listed on this form and return the completely initialed form to the Applicant. For the convenience of the Examiner, Applicant submits herewith a new Form PTO-SB/08 listing all references, including the reference that was not considered by the Examiner previously.

Drawings

Again, Applicant thanks the Examiner for acknowledging and accepting the drawings filed on June 23, 2005.

Art Rejections

1. Claims 1-9 and 11-13 are rejected under 35 U.S.C. § 102(e) as being anticipated by Hermouet et al. (US 6,471,097).

2. Claims 1, 5 and 10 are rejected under 35 U.S.C. § 102(e) as being anticipated by Bougamont et al. (US 6,196,424).

Applicant respectfully traverses.

Claim Rejections - 35 U.S.C. § 102

1. Claims 1-9 And 11-13 In View Of Hermouet et al. (US 6,471,097).

In rejecting claims 1-9 and 11-13 in view of Hermouet et al. (US 6,471,097), the grounds of rejection state:

> The applied reference has a common inventor and/or assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.
>
> The Hermouet et al. reference discloses a fluid dispenser device (fig.1) having a chamber (fig.1)[1] provided with an inlet valve (5,13) and with an outlet valve (32), and defining a sealed slide cylinder (41); a piston (3) disposed inside the chamber and including a lip (31) capable of sliding in sealed manner in the slide cylinder (41); an actuator rod (27) on which the piston (3) is slidably mounted; a bearing flange (fig.1) for coming to bear against a reservoir neck; and a ferrule (4) against which the piston (3) is resiliently urged in the rest position; the device being characterized in that the chamber comprises a top portion (fig.1) and a bottom portion (fig.1), the sealed slide cylinder (41) being

[1] Please refer to Appendix A for specified feature(s).

situated above the bearing flange (fig.1), at the top portion, so that it cannot be inserted into a reservoir neck, and in that the bottom portion (fig.1) is situated below the flange (fig.1), so as to be inserted into the reservoir neck.

Re: claim 2 the slide cylinder (41) defines a bottom abutment end (fig.1) situated substantially at the bearing flange (fig.1).

Re: claim 3 the piston (3) is provided with guide means (fig.1) for holding it on the axis inside the chamber.

Re: claim 4 the guide means (fig.1) include a top guide sleeve (fig.1) engaged in a through hole formed by the ferrule (4).

Re: claim 5 rod (27) is not in contact with the ferrule (4).

Re: claim 6 the top sleeve (fig.1) surrounds the actuator rod (27).

Re: claim 7 the guide means include a bottom guide sleeve (fig.1) engaged in a bushing (fig.1) defining a bottom portion (fig.1) of the chamber.

Re: claim 8 the bushing (fig.1) defines a bottom end (fig.1) serving as an abutment for the inlet valve (5) in the open position.

Re: claim 9 a precompression spring (16), situated outside the chamber (fig.1), bears between the rod (27) and the piston (3) so as to urge the outlet valve (26,32) into the closed position.

Re: claim 11 the slide cylinder (41) is formed by a body, the bearing flange (fig.l) being formed by a ring (fig.1,11) engaged around the body (1).

Re: claim 12 a pushbutton (8,fig.1) forming a fastener sleeve (fig.1), the actuator rod (27) defining a housing, the sleeve being engaged in the housing[2].

Re: claim 13 a vent passage (15) that is closed in the rest position by a cone-shaped sealing contact.

[2] It is inherit that the top sleeve is engaged to the housing, even though the housing is not shown it the drawing, it is known in the art to have a housing to hold the entire pump structure and fluid.

Office Action at pages 2-4.

Applicant respectfully traverses this rejection because the reference fails to describe each and every element as set forth in the claims, either expressly or inherently. Specifically, Hermouet does not disclose or even suggest "[a] sealed slide cylinder (14) being situated above the bearing flange (42), at the top portion, so that it cannot be inserted into a reservoir neck," as recited in claim 1.

For example, in Hermenout "[f]errule 4 defines a perfectly cylindrical inner section 43 that is used as a sealed sliding surface." *See* col. 4, lines 65-67. This cylindrical section, and not the upper flange 41 of the ferrule 4 as maintained by the grounds of rejection, corresponds to the sealed slide cylinder according to claim 1. As Figure 1 clearly shows, the cylindrical section is situated below the thickened top end 10 of the body section 11 that corresponds to the bearing flange in claim 1. In other words, Hermenout does not teach a slide cylinder being situated above the bearing flange, as recited in claim 1.

Furthermore, the "thickened top end 10 . . . defines a supporting reference for the unit" to which the neck is connected. *See* Fig. 1 and col. 3, lines 58-61. Thus, the pump body in Hermenout is inserted into the unit up to the thickened top end. Consequently, since the slide cylinder is situated below the thickened top end, it clearly can be inserted into a reservoir neck, being the opposite of what is recited in claim 1. As a result, Hermenout fails to describe each and every element as set forth in the claim, either expressly or inherently.

Therefore, Applicant respectfully requests that the rejection of claim 1 under 35 U.S.C. § 102(e) be reconsidered and withdrawn. Claims 2-9, and 11-13 depend on claim 1 and are patentable at least by virtue of their dependency.

2. Claims 1, 5 and 10 In View Of Bougamont et al. (US 6,196,424).

In rejecting claims 1, 5 and 10 in view of Bougamont et al. (US 6,196,424), the grounds of rejection state:

> The Bougamont et al. reference discloses a fluid dispenser device (fig.1) having a chamber (11,230) provided with an inlet valve (12) and with an outlet valve (24c), and defining a sealed slide cylinder (fig.1) [3]; a piston (2) disposed inside the chamber and including a lip (33a) capable of sliding in sealed manner in the slide cylinder (fig.1); an actuator rod (23) on which the piston (2) is slidably mounted; a bearing flange (fig.1) for coming to bear against a reservoir neck; and a ferrule (33b) against which the piston (2) is resiliently urged in the rest position; the device being characterized in that the chamber comprises a top portion (230) and a bottom portion (11), the sealed slide cylinder (fig.l) being situated above the bearing flange (fig.1), at the top portion, so that it cannot be inserted into a reservoir neck, and in that the bottom portion (11) is situated below the flange (fig.1), so as to be inserted into the reservoir neck.
>
> Re: claim 5 rod (23) is not in contact with the ferrule (33b).
>
> Re: claim 10 a return spring (4), situated outside the chamber, bears between the rod (23) and the ferrule (33b) so as to urge the piston (2) into the rest position.

Office Action at pages 4-5.

Applicant respectfully traverses this rejection. For example, Bougamont does not disclose or even suggest "[a] sealed slide cylinder (14) being situated above the bearing flange (42), at the top portion, so that it cannot be inserted into a reservoir neck," as recited in claim 1.

In Bougamont, "[the] pump comprises a substantially cylindrical body internally defining a metering chamber 11." *See* Fig. 1 and col. 3, lines 9-10. Chamber 11 corresponds to the chamber (15, 15'), recited in claim 1, that defines a sealed slide cylinder (14). As Fig. 1 clearly

[3] Please refer to Appendix B for specified feature(s).

shows, the chamber in Bougamont is entirely located within, and even below, the reservoir neck C. Consequently, the cylindrical body in Bougamount is inserted into a reservoir neck and thus Bougamount does not teach a sealed slide cylinder that cannot be inserted into the reservoir neck, as recited in claim 1.

As a result, Bougamont fails to describe each and every element as set forth in the claim, either expressly or inherently. Therefore, Applicant respectfully requests that the rejection of claim 1 under 35 U.S.C. § 102(e) be reconsidered and withdrawn. Claims 5 and 10 depend on claim 1 and are patentable at least by virtue of their dependency.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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Substitute for Form 1449 A & B/PTO				*Complete if Known*	
INFORMATION DISCLOSURE STATEMENT BY APPLICANT				Application Number	10/540,398
				Confirmation Number	9712
(use as many sheets as necessary)				Filing Date	June 23, 2005
				First Named Inventor	Stephane BERANGER
				Art Unit	3754
				Examiner Name	Stephanie E. TYLER
Sheet	1	of	1	Attorney Docket Number	Q88616

U.S. PATENT DOCUMENTS

Examiner Initials*	Cite No.[1]	Document Number: Number	Document Number: Kind Code[2] (if known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document
		US 2001/025863	A1	10-04-2001	Prox Matthias et al
		US 6 036 059	A	03-14-2000	Owen F Vanbrocklin
		US 3 940 070	A	02-24-1976	Michel Boris
		US			
		US			
		US			
		US			
		US			
		US			

FOREIGN PATENT DOCUMENTS

Examiner Initials*	Cite No.[1]	Foreign Patent Document: Country Code[3]	Foreign Patent Document: Number[4]	Foreign Patent Document: Kind Code[5] (if known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Translation[6]
		JP	01 066475	A	03-13-1989	Hiroshi Kondo	
		WO	97/05043	A	02-13-1997	Robert A Lehmkuhl	
		AT	345 686	B	09-25-1978	Raunikar KG Johann	
		EP	0 795 354	A	09-17-1997	Calmar Inc	

NON PATENT LITERATURE DOCUMENTS

Examiner Initials*	Cite No.[1]	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city, and/or country where published.	Translation[6]
		Patent Abstracts of Japan, vol. 013, no. 265 (M-389), June 19, 1989	

Examiner Signature		Date Considered	

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

[1]Applicant's unique citation designation number (optional). [2]See Kind Codes of USPTO Patent Documents at www.uspto.gov, MPEP 901.04 or follow the hyperlink from the title of the document to the intranet. [3] Enter Office that issued the document, by the two-letter code (WIPO Standard ST. 3). [4]For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. [5]Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST. 16 if possible. [6] Applicant is to indicate here if English language Translation is attached.